

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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ANTHONY GALLEY, Deceased, by and
through his Co-Successors in
Interest, P.P. and B.P., minors,
through their mother and Next
Friend, Christina O'Neil,
Individually and as Co-
Successors in Interest for
ANTHONY GALLEY, Deceased,

Plaintiffs,

v.

COUNTY OF SACRAMENTO, a public
entity; FORMER SACRAMENTO COUNTY
SHERIFF SCOTT R. JONES, in his
individual capacity; Jail
Commander ANTHONY PAONESSA; Jail
Medical Director VEER BABU,
M.D.; MAXIM HEALTHCARE SERVICES,
INC. dba MAXIM STAFFING
SOLUTIONS, a Maryland
Corporation; MAXIM HEALTHCARE
STAFFING SERVICES, Inc., a
Maryland Corporation; ERICA
WOODS, R.N.; and DOES 1-20;
individually, jointly, and
severally,

Defendants.

No. 2:23-cv-00325 WBS AC

MEMORANDUM AND ORDER RE:
MEDICAL DEFENDANTS' MOTION TO
DISMISS

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P.P. and B.P., the minor children of decedent Anthony Galley, bring this action against the County of Sacramento, Former Sacramento County Sheriff Scott Jones, Jail Commander Anthony Paonessa, and Jail Medical Director Doctor Veer Babu (collectively the "County Defendants"), as well as Maxim Healthcare Services, Inc., Maxim Healthcare Staffing Services, Inc., and Nurse Erica Woods (collectively the "Medical Defendants"), for violations of both federal and state law in connection with Mr. Galley's death while detained in the Sacramento County Jail. (See generally First Am. Compl. (Docket No. 20).)

The court previously denied the County Defendants' motion to dismiss claims raised against them. (July 13, 2023 Order Re: Mot. to Dismiss (Docket No. 30).) The court now considers the Medical Defendants' motion to dismiss.¹ (Docket No. 39.)

The Medical Defendants advance two arguments: (1) plaintiffs fail to state a claim against Woods under 42 U.S.C. § 1983 (Claim 1); and (2) plaintiffs fail to state a claim against Maxim or Woods under the Tom Bane Act (Claim 3).² The court

¹ The factual history is set forth in that previous order, and the court does not repeat it here.

² The Medical Defendants also moved to dismiss plaintiffs' claim against Woods under Cal. Civ. Code § 845.6 (Claim 6) on the ground that Woods is not a public employee. (Mot.) In their opposition, plaintiffs agreed that the claim should be dismissed. (Opp'n (Docket No. 42) at 8.) Accordingly, the court will grant the motion to dismiss plaintiffs' Section 845 claim.

1 rejects both arguments.

2 I. Section 1983 (Claim 1)

3 Because Mr. Galley was a pre-trial detainee, the
4 circumstances of his confinement are properly addressed under the
5 due process clause of the Fourteenth Amendment, not under the
6 Eighth Amendment. Gordon v. County of Orange, 888 F.3d 1118,
7 1124 (9th Cir. 2018) (citing Castro v. County of Los Angeles, 833
8 F.3d 1060, 1069-70 (9th Cir. 2016)). Section 1983 claims
9 alleging violations of the right to adequate medical care under
10 the Fourteenth Amendment are evaluated under an objective
11 deliberate indifference standard. Gordon, 888 F.3d at 1124-25.
12 "This differs from the inquiry under the Eighth Amendment which
13 requires that the prison official must subjectively have a
14 sufficiently culpable state of mind [A] pretrial detainee
15 need not prove those subjective elements about the officer's
16 actual awareness of the level of risk." Id. at 1124 n.4
17 (citations omitted).

18 The objective deliberate indifference standard requires
19 allegations that (i) the defendant made an intentional decision
20 with respect to the conditions under which the plaintiff was
21 confined; (ii) those conditions put the plaintiff at substantial
22 risk of suffering serious harm; (iii) the defendant did not take
23 reasonable available measures to abate that risk, even though a
24 reasonable official in the circumstances would have appreciated
25 the high degree of risk involved -- making the consequences of
26 the defendant's conduct obvious; and (iv) by not taking such
27 measures, the defendant caused the plaintiff's injuries. Id. at
28 1125. At issue here is the third prong. "The mere lack of due

1 care by a state official does not deprive an individual of life,
2 liberty, or property under the Fourteenth Amendment. Thus, the
3 plaintiff must prove more than negligence but less than
4 subjective intent -- something akin to reckless disregard." Id.
5 at 1125 (citations omitted).

6 The Medical Defendants contend that Gordon's test
7 applies only narrowly in cases where, unlike here, an affirmative
8 choice of treatment against other alternatives is at issue.
9 (Reply (Docket No. 43) at 3.) They misinterpret Gordon's scope.
10 The Supreme Court in Kingsley v. Hendrickson, 576 U.S. 389 (2015)
11 held that determining whether the use of force against a pretrial
12 detainee was excessive pursuant to a Section 1983 claim requires
13 an objective inquiry because due process concerns implicate
14 objective consequences of official action, not the subjective
15 intent behind it. Id. at 397-98. The Ninth Circuit in Castro
16 spread this holding to failure-to-protect claims, in part because
17 the "broad wording of Kingsley . . . did not limit its holding to
18 'force' but spoke to 'the challenged governmental action'
19 generally." Id. at 1070 (quoting Kingsley, 576 U.S. at 398). In
20 Gordon, the Ninth Circuit extended this logic further to cover
21 inadequate medical care claims generally. Gordon, 888 F.3d at
22 1125. This claim falls firmly within Gordon's ambit.

23 Taking all of plaintiffs' allegations as true and
24 drawing every reasonable factual inference in plaintiffs' favor,
25 the court finds that plaintiffs plead facts sufficient to allege
26 objective deliberate indifference. Mr. Galley had been detained
27 repeatedly at the same jail in the past. (First Am. Compl. ¶
28 24.) According to the allegations, during his detentions, Mr.

1 Galley regularly informed jail medical staff about his alcohol
2 dependency, withdrawal symptoms, and risk of seizures if not
3 given proper detoxification procedures. (Id.) Because of these
4 warnings, Mr. Galley was always placed on detoxification and
5 withdrawal protocols, which were documented in Mr. Galley's jail
6 medical records. (Id.) During his final detention, Mr. Galley was
7 medically screened because of his prior medical history as
8 reflected in his jail medical records. (Id. ¶ 23.) Further,
9 Woods, as Mr. Galley's screening nurse, id., plausibly had access
10 to Mr. Galley's medical records. Mr. Galley also exhibited clear
11 signs of alcohol impairment while Woods was medically screening
12 him. (Id.) Finally, Mr. Galley told Woods directly during the
13 screening about his history of alcohol withdrawal and how much
14 alcohol he had drunk earlier that day. (Id.)

15 Plaintiffs allege that any Registered Nurse in the
16 circumstances equipped with this information would have been
17 required to put Mr. Galley on immediate detoxification and
18 alcohol withdrawal protocols. (Id. ¶ 25.) But as alleged in the
19 complaint, Woods did not, contrary to nationally recognized
20 clinical standards, the jail's internal policy, and even the
21 jail's own past established practice with the same detainee.
22 (Id. ¶¶ 24-25.) In fact, nothing suggests that Woods prescribed
23 or provided any course of medical treatment at all.

24 The Medical Defendants correctly point out that
25 "negligently inflicted harm is categorically beneath the
26 threshold of constitutional due process." Kingsley, 576 U.S. at
27 396. But Woods's failure to place Mr. Galley on immediate
28 detoxification and monitoring protocols, in full context of what

1 she allegedly knew or should have known, is enough to allege
2 deliberate indifference to Mr. Galley's risk of being in serious
3 medical danger. Accordingly, the court will deny the motion to
4 dismiss the Section 1983 claim as asserted against Woods.

5 II. Tom Bane Act (Claim 3)

6 To survive on a motion to dismiss, a Tom Bane Act claim
7 must allege that an official acted with specific intent to
8 violate their rights. Reese v. County of Sacramento, 888 F.3d
9 1030, 1043 (9th Cir. 2018) (citing Cornell v. City & County of
10 San Francisco, 17 Cal. App. 5th 766, 801 (1st Dist. 2017)).
11 However, "specific intent" may be shown by demonstrating an
12 official's reckless disregard for a person's constitutional
13 rights. Id. at 1045 ("[A] reckless disregard for a person's
14 constitutional rights is evidence of a specific intent to deprive
15 that person of those rights."); Cornell, 17 Cal. App. 5th at 803-
16 04 ("Reckless disregard of the 'right at issue' is all that [is]
17 necessary.").

18 The court sees no logical reason to distinguish
19 "reckless disregard" under Gordon from its manifestations under
20 the Tom Bane Act. Additionally, Gordon clearly distinguishes
21 "reckless disregard" as something different from, and strictly
22 "less than[,] subjective intent." Id. at 1125 (emphasis added).
23 The court therefore applies the same objective test from Gordon
24 to the Tom Bane Act claim here.

25 As applied, and as discussed in the previous section,
26 plaintiffs plead facts sufficient to plausibly show that Woods's
27 inaction in these circumstances rose to the level of objective
28 reckless disregard for a grave medical risk. This is enough for

1 the Tom Bane Act claim to survive at the pleading stage.
2 Accordingly, the court will deny the motion to dismiss the Tom
3 Bane Act claim as asserted against the Medical Defendants.

4 IT IS THEREFORE ORDERED that the Medical Defendants'
5 motion to dismiss (Docket No. 39) be, and the same hereby is,
6 GRANTED as to plaintiffs' Section 845 claim (Claim 6), and DENIED
7 as to plaintiffs' Section 1983 and Tom Bane Act claims (Claims 1
8 and 3). Claim 6 is DISMISSED WITHOUT LEAVE TO AMEND.

9 Dated: September 19, 2023



10 **WILLIAM B. SHUBB**
11 **UNITED STATES DISTRICT JUDGE**
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